ORIGINAL

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	CC Docket No. 92-77
Billed Party Preference	)	
for "0+" InterLATA Calls	)	

REPLY COMMENTS OF THE COMPETITIVE TELECOMMUNICATIONS ASSOCIATION

Respectfully submitted,

THE COMPETITIVE TELECOMMUNICATIONS ASSOCIATION

Genevieve Morelli
Vice President and
General Counsel
THE COMPETITIVE TELECOMMUNICATIONS ASSOCIATION
1140 Connecticut Ave., N.W.
Suite 220
Washington, D.C. 20036
(202) 296-6650

Danny E. Adams
Edward A. Yorkgitis, Jr.
Steven A. Augustino
WILEY, REIN & FIELDING
1776 K Street, N.W.
Washington, D.C. 20006
(202) 429-7000

Its Attorneys

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The Competitive Telecommunications Association ("CompTel"), by its attorneys, hereby replies to the comments filed in response to the Commission's Further Notice of Proposed Rulemaking ("*FNPRM*") in the above-captioned matter.[1]

I. INTRODUCTION AND SUMMARY

As explained herein, the record developed in response to the *FNPRM* underscores the need for the Commission to (1) abandon the proposal to mandate implementation of a "billed party preference" ("BPP") system for "0+" operator-assisted interLATA calling and (2) terminate this proceeding. What support there had been for BPP has virtually disappeared. Only three of the seven Regional Bell Operating Companies and a handful of local exchange carriers ("LECs") still support its implementation, and then only subject to certain significant conditions. Most LECs, including three RBOCs, Cincinnati Bell, Rochester Telephone, Southern New England

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[1] *Billed Party Preference for 0+ InterLATA Calls*, FCC 94-117 (June 6, 1994) (Further Notice of Proposed Rulemaking) (hereinafter "FNPRM").

Telephone Company, NTCA, and OPASTCO, oppose BPP outright. Among the interexchange carriers, only MCI and Sprint support BPP, as they hope to re-form the "0+" marketplace in the image of the "1+" market through default balloting, thereby greatly enhancing their "0+" market share overnight simply through government fiat. AT&T, CompTel, LDDS and 18 other IXCs oppose BPP. Even NARUC does not advocate implementation of BPP.

The reasons for abandoning BPP are simple yet compelling. The revised data now before the Commission demonstrate not only that BPP will cost far more than anticipated in the *FNPRM*, but that the benefits pale in comparison. The disparity between the known costs and the potential benefits is much greater than the conservative calculations provided by CompTel in its initial comments, which were based on the LECs' earlier cost estimates. The updated data submitted in the comments reveal that BPP will cost $500 million *more* than it would "save" each year.

The financial burden of BPP implementation is so daunting, and the disparity between cost and savings is so great, that the LECs border on the threatening in their insistence that BPP cost recovery be spread over a large base of users, far larger than the pool of potential beneficiaries. But if the users of BPP will not pay for its implementation (or if users are willing to dial access codes to "avoid" BPP), as the LECs virtually unanimously fear, then basic economic theory holds that BPP is not justified. This universal concern over cost recovery from both supporters and

opponents of BPP isolates in one single issue the inadequacy of the cost/benefit analysis in the FNPRM.

While the economics of BPP provide sufficient reason to avoid its implementation, the unquantifiable, but very real, adverse consequences of BPP to competition cannot be ignored either. The comments uniformly reiterate that BPP will significantly harm interexchange, local, and payphone competition, service quality and the availability of public phones. Moreover, as the LECs protect their foothold in the intraLATA market and the RBOCs clamor to enter the interexchange marketplace, it becomes increasingly apparent that implementation of BPP may lead to anti-competitive effects and provide an environment in which discrimination could be virtually undetectable. Without question, BPP will not enhance caller access to operator services enough to offset these drawbacks.

In fact, the comments make clear that the benefits ostensibly to be achieved by BPP are today largely being realized without BPP. Callers are increasingly demonstrating their understanding of how to reach their carrier of choice. Accordingly, IXCs, by and large, are directing their marketing efforts to end users. MCI, a leading proponent of BPP, now advertises its 1-800 COLLECT service with the slogan "nobody dials 0 anymore." As a number of commenters note, any remaining concerns about rates can be addressed through rate benchmarks. At the risk of sounding like a broken record, BPP truly is an idea whose time, if it ever came, has

passed. Therefore, BPP should not be adopted, and the proceeding should be terminated.

II. THE RECORD UNDERSCORES THE REALITY THAT THE COSTS OF BPP WILL FAR OUTSTRIP ITS BENEFITS

The comments submitted in response to the *FNPRM* validate CompTel's grave concerns about the completeness and soundness of the BPP cost-benefit analysis offered in the *FNPRM*. As numerous other parties recognize, the *FNPRM* seriously underestimated the costs of BPP by failing to make any allocation for overheads,[2] a reasonable rate of return,[3] the costs of 14-digit screening,[4] "0+" balloting,[5] increased IXC advertising during the transition to a BPP environment,[6] and stranded aggregator investment.[7] Concomitantly, the record supports CompTel's observations that consumer savings as a result of BPP implementation will be far less than anticipated by

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[2] AT&T Comments at 20; Polar Comments at 11; ClearTel/Call America Comments at 3.

[3] Reply Comments of the Pennsylvania Public Utility Commission at 7 (filed August 31, 1994).

[4] ClearTel/Call America Comments at 3; PacTel Comments at 5.

[5] PacTel Comments at 6; AT&T Comments at 20-21; Oncor Comments at 10; ClearTel/Call America Comments at 3-4.

[6] Intellicall Comments at 18; Oncor Comments at 11; NYNEX Comments at 6; Bell Atlantic Comments at 5.

[7] AT&T Comments at 21-22; AMNEX Comments at 5 n.5; Oncor Comments at 12.

the *FNPRM* due to unreasonably optimistic assumptions (1) that the current growth rate in the operator services market is equal to that of interstate interexchange toll revenue as a whole for the past 10 years[8] and (2) that aggregators will not seek to recover "lost" commissions through other means.[9]

Importantly, the record goes well beyond confirming the tenor of CompTel's original analysis. Taken as a whole, the comments show that the *net cost* of BPP will be far greater than the $200 million annual shortfall described by CompTel. Indeed, the shortfall may well exceed $500 million annually. Without a doubt, this is an absurdly high price to address problems that are, as the record convincingly shows, already confined to a small percentage of operator services calls and rapidly vanishing.

A. The Comments Detail Several Additional Areas in Which the *FNPRM* Understated the Costs of BPP Implementation

In its opening comments, CompTel demonstrated that the costs of BPP implementation -- estimated by the FCC to be on the order of $420 million a year -- were understated by at least $193 million. Other parties have now submitted information to demonstrate that the costs will, in actuality, exceed the FNPRM estimate by at least $320 to over $390 million per year. The principal cause for this adjusted

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[8] *See* AT&T Comments at 5-6 & n.3.

[9] *See* Bell Atlantic Comments at 5-6; AT&T Comments at 14-15 (estimates non-government aggregators will seek to recover 50 percent of current commissions); Teleport Comments at 13-14; Hilton Comments at 1 (Hilton may reimpose a per-call surcharge).

figure is that most of the LECs have provided new and, as a general matter, significantly higher cost estimates.[10]

1. LEC Cost Estimates Have Risen Dramatically

On the whole, LEC cost estimates have gone up significantly from those detailed in the *FNPRM*, underscoring the LECs' heightened anxiety about the recovery of BPP costs. Most notable is the fact that the estimates now include a fuller assessment of BPP implementation costs for the independent LECs, including Cincinnati Bell, SNET, and the Sprint affiliates. Moreover, although the estimate of the United States Telephone Association now excludes these three LECs, it still is over 50 percent higher than the previous estimate for all independents.[11] In addition, the estimates of a number of LEC supporters of BPP, including Ameritech and GTE, have risen.[12] In fact, taken as a whole, the non-recurring cost estimates of the LECs, on an amortized basis -- excluding overheads, 14-digit screening, and balloting -- have increased by approximately $70 million per year, to $427 million. Recurring costs

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[10] CompTel took the FCC's underlying LEC cost estimates as a given in its initial comments.

[11] USTA Comments at 4 & n.2 (estimating $328.5 million vs. $215.3 million estimated in July 1993).

[12] Notably, PacTel, a BPP proponent, did not provide a revised cost estimate nor confirm its earlier one. U S West, a previous supporter of BPP, did not even file initial comments.

have increased 65 percent, from $149 million annually to $246.8 million.[13] These significant cost estimate revisions are summarized in Tables 1 and 2 below.[14]

Table 1
Estimates of Non-Recurring LEC Costs
(Annualized and Amortized over 5 years)

	FNPRM	COMMENTS
RBOCs	$262.2M	$244.3M
GTE	38.0M	46.0M
Sprint, Cincinnati Bell & SNET	--	46.5M
Independents (USTA estimate)	57.3M	89.8M
TOTALS	$357.5M	$426.6M

[13] The record reflects serious doubt that the LEC recurring expenses related to operator services will be offset by IXC savings in expenses of a similar nature. *See, e.g.*, NYNEX at 12; Bell Atlantic Comments at 13. Indeed, given the almost precipitous rise in the use of dial-around calling and the increases in credit card calling, it is clear that the IXCs will continue to have substantial operator services expenditures in a BPP environment. Accordingly, the *FNPRM's* analysis seriously overstated the size of the recurring cost offset, and it is probable that most, if not all, of the recurring costs estimated by the LECs should be considered fully as costs of BPP. However, even if the offset assumption of the FCC -- 75 percent of operator costs -- were assumed to be valid, the revised cost estimates reveal that *recurring* costs will still increase by at least $24 million per year.

[14] A detailed description of the derivation of these figures is included in Attachment 1.

Table 2
Estimates of Annual Recurring LEC Costs

	FNPRM	COMMENTS
RBOCs	$106.1M	$162.9M
GTE	25.4M	52.3M
Sprint, Cincinnati Bell & SNET	--	21.1M
Independents (USTA estimate)	17.5M	10.5M
TOTALS	$149.0M	$246.8M

Moreover, the comments reveal that CompTel's initial estimates of the cost of "0+" balloting and 14-digit screening were understated. The average estimate from the RBOCs for "0+" balloting was $9.6 million.[15] Similar balloting is estimated by the independents to cost at least $15.3 million.[16] Thus, amortized over five years, "0+" balloting will add at least $23.9 million dollars in annual costs to BPP ((7 RBOCs x $9.6 million per RBOC) + $15.3 million (independents) x 0.29 amortization

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[15] Ameritech Comments at Attach. A ($15.6M); Bell Atlantic Comments at 20 ($18.0M); BellSouth Comments at App. A ($4.4M); NYNEX Comments at Attach. C-1 ($4.1M); Southwestern Bell Comments at Attach. A ($6.0M). None of the RBOCs indicated that allocating non-responding customers among all OSPs, rather than defaulting them to their "1+" carrier, would increase balloting costs appreciably. Since defaulting customers to their "1+" carriers would substantially disadvantage most current OSPs, the only fair way to conduct the balloting is to require LECs to allocate non-responding customers in the same manner that "1+" equal access ballots were handled.

[16] GTE Comments at Attach. A ($1.6M); Sprint Comments at 27 ($5.1M); USTA Comments at 4 ($8.6M). SNET did not include in its cost estimates an estimate for balloting, and CBT did not separately identify its balloting costs.

factor). This is considerably higher than the $4.4 million that CompTel conservatively estimated in its initial comments.

Similarly, nearly all LECs opposed 14-digit screening as expensive, but only a few large LECs provided an estimate of its cost. Those estimates ranged from a *low* of $3.8 million to a high of $16 million.[17] Given this uncertainty, total 14-digit screening costs could very well exceed CompTel's estimate of $23 million per year.[18]

Thus, when estimates for 14-digit screening ($23 million/year), balloting ($23.9 million/year), overheads (25 percent), and a reasonable rate of return (12.5 percent) are added to these new cost estimates, the significant degree to which non-recurring costs were understated is exacerbated considerably. The addition of these costs plus the overheads and rate of return factors yield an annual *non-recurring* cost of $665.9 million, which alone is over $280 million a year more than the *FNPRM's* estimate of $380 million per year for *both* recurring and non-recurring costs. When recurring costs are factored in based on the new estimates, BPP costs will be at least $900 million per year, or $500 million more than the FNPRM estimate.[19]

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[17] Bell Atlantic Comments at 21 ($3.8M); GTE Comments at 20 & Attach. A ($5.1M); NYNEX Comments at Attach. C ($3.8M); Southwestern Bell Comments at 9 ($8-16M).

[18] *See* CompTel Comments at 7.

[19] Indeed, if overhead loadings are added and a rate of return included in the estimates for *recurring* costs, the total recurring costs are about $350 million annually, making the *FNPRM's* estimate short about $600 million per year for total LEC costs. Even if the FCC's offset factor of 75 percent for IXC operator cost savings is used to

(continued...)

2. Costs Associated With the Inclusion of Commercial Credit Card Calls Within the BPP System Improperly Were Excluded From the FNPRM Estimate

Another additional, potentially significant source of costs discussed in the comments and excluded from the *FNPRM's* analysis are those associated with the inclusion of commercial credit card calls in the BPP system. To be included within the BPP system, commercial credit card issuers will have to modify their validation software to meet LIDB and CIID standards.[20] Additionally, credit card issuers would have to ballot their customers to determine their preferred carriers and then develop the capability of accepting "0+" selection changes.[21] Without a ballot, of course, the issuers will not know the billing preference of the caller. While the expenses of this ballot will likely be less than that required for "0+" calling generally, there are still likely to run to several million dollars.

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[19](...continued)
reduce this total, total recurring costs would be almost $90 million, making the *FNPRM* estimate short by over $370 million per year.

[20] Southwestern Bell Comments at 12; Bell Atlantic Comments at 22; NYNEX Comments at 17; SNET Comments at 3; USTA Comments at 13.

[21] As NYNEX noted, in a BPP environment the card *holder*, not the card issuer, should determine the preferred IXC associated with the card. NYNEX Comments at 17; *see also* Southwestern Bell Comments at 12. Cardholders select commercial credit cards based upon a variety of factors (including annual fees, interest rates, reputation of the issuer, and tie-in rebates). Unlike selecting a card from an IXC, there is no reason to presume the selection of a preferred carrier based upon the preference for a card issuer.

3. The Effects of Inflation Improperly Were Excluded from the FNPRM's Analysis

As NYNEX points out in its comments, the Commission assumed that the cost of implementing BPP will not increase between now and 1997. This is an unrealistic assumption because it fails to account for inflation. Using the projected rates of inflation for 1995 through 1997,[22] the cost of BPP based upon the current estimates from the LECs, would increase, at a minimum, from $750 million[23] to $829.5 million in 1997, with additional increases due to inflation in 1998 and thereafter.[24]

B. The Record Reveals That the Benefits Were Overstated to an Extent Even Greater Than That Suggested in CompTel's Initial Comments

In its initial comments, CompTel concluded that the *FNPRM* overstated the benefits of BPP on the order of $200 million. Specifically, CompTel pointed out the overly optimistic growth rate for operator services, the failure to account for the impact

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[22] *See* NYNEX at 9 n.11 (the Consumer Price Index is projected to increase by 3.1 percent by 1995, 3.5 percent in 1996, and 3.6 percent in 1997.)

[23] As discussed in subsection 1 above, based on the new LEC cost estimates, non-recurring costs are approximately $665.9 million per year and recurring costs are at least $90 million (using the FCC's IXC operator cost offset factor of 75 percent.) This figure excludes OSP costs for BPP, which similarly would be affected by inflation.

[24] It would not be reasonable to assume that the FNPRM could ignore inflation because it would affect costs and revenues equally. According to statistics compiled by the FCC, interstate toll rates have declined by 29.1% since the end of 1983. *Reference Book: Rates, Price Indexes, and Household Expenditures for Telephone Service*, Appendix 1, p. 77, 80, Industry Analysis Division, Common Carrier Bureau, FCC (July 1994). During the same time, however, the Consumer Price Index for all goods and services *increased* by 43.9%. *Id.*

of the original pay telephone compensation requirements, and the fact that the *FNPRM* unrealistically assumed that aggregators would choose not to impose new or increased fees directly on callers to make up for lost OSP commissions.[25] The comments of other parties provide additional data that indicate that the benefits of BPP were overstated even more significantly than CompTel's initial analysis suggested. Although several other overstatements were identified,[26] the primary errors in the FNPRM's estimates were 1) that the actual operator services growth rate is well below the FNPRM estimate, and, as AT&T's data shows, is even less than CompTel assumed; and 2) the dial-around rate is well above the FNPRM estimate, having already increased to a level exceeding the FCC's estimate for 1997.

1. AT&T's Data Strongly Suggest That the Operator Services Industry is Undergoing a Negative Growth Rate

In its initial analysis, CompTel noted a general perception that the growth rate of the operator services segment of the telecommunications industry is below that of the toll market as a whole. CompTel assumed, for purposes of illustration, that the annual growth rate in the operator services industry was on the order of 2 percent, rather than the historic rate of 4.3 percent per year for all toll traffic revenues over the period 1984 to 1992. Under this assumption, CompTel showed that the prospective benefits

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[25] CompTel Comments at 10-13.

[26] *See, e.g.*, APCC Comments at 21-29; AMNEX Comments at 5-6.

from BPP in terms of reduced rates and the elimination of commissions were overstated by $85 million.[27]

AT&T has provided data showing that the actual *industry-wide* growth rate for operator services has averaged only 0.63 percent since 1991.[28] Indeed, there has been a *negative* growth rate during 1993 and 1994.[29] As a result, the *FNPRM* estimate of savings through lower rates and reduced commissions was overstated even more than CompTel posited. Based on the AT&T data, the *FNPRM* overstated the six-year growth of the industry by approximately 19.3 percent rather than the 13 percent CompTel suggested in its initial comments.

Moreover, the impact of cellular, PCS, and other wireless technologies cannot be ignored. As logic dictates and AT&T research reveals, customers with wireless communication capability will place fewer calling card or other alternate billed calls.[30] Today, the caller uses a payphone; tomorrow, a PCS handset.[31] Thus, as the

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[27] *Id.*

[28] AT&T Comments at 5. Given the fact that AT&T is, by far, the dominant provider in the operator services industry, this has to be considered the most reliable information available.

[29] *Id.* Similarly, Bell Atlantic reported that its operator-assisted call volumes have declined since 1990. Bell Atlantic Comments at 10; *see also* US West *ex parte*, August 16, 1993 (1992-93 0+ calling declined 6% over prior year).

[30] AT&T Comments at 6 n.4.

[31] *See* Bell Atlantic Comments at 11.

availability of wireless communication grows, one would expect the total number of operator service calls to decline accordingly.

Even excluding the likely effects of the growth of wireless telecommunications, however, the effects of overstated industry growth figures on the cost-benefit analysis are striking. Specifically, the Commission's estimate of $280 million in lower rates was overstated by $54 million, reducing these "savings" to $226 million. Moreover, when the FNPRM's Commission "savings" analysis is carried through using this growth rate, and taking into account the full amount of dial around compensation,[32] the FNPRM's estimate of "saved" commissions was overstated by $98 million, lowering the estimate to $242.4 million.[33] Further, when aggregator recovery of these lost revenues directly or indirectly through other means is considered, even assuming that aggregators will recover only 50 percent of the remainder,[34] only $121.2 million in "savings" from reduced commissions would remain. Thus, from the initial benefit estimate of $620 million per year, only $347 million is likely to be realized. However, even this amount is likely to be lower due to a marked increase in the use of access codes.

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[32] CompTel Comments at 11-12.

[33] This calculation is explained in Attachment 2.

[34] CompTel Comments at 12; *see also* Hilton Comments at 1 (Hilton will consider re-implementing a per call surcharge); Teleport Comments at 13-14 (existing "smart payphone" technology collects sufficient information to render a separate bill for call surcharges); APCC Comments at 26-27 (LEC payphone location owners will recover lost interLATA commissions with increased LEC commission payments).

2. The Dial-Around Rate Has Increased Dramatically, Necessitating a Recalculation of BPP's Benefits

In its analysis, the *FNPRM* assumed that the dial-around rate would reach 50 percent by 1997.[35] However, numerous commenters explain that the dial-around rate *today* is already in the vicinity of *60 percent*.[36] Moreover, there are several parties that project the dial-around rate to increase to 70 or 80 percent by 1997.[37]

Not only do these figures demonstrate that TOCSIA is working, *i.e.*, the public is increasingly aware that they can reach their carrier of choice through 10XXX, 1-800, and 1-950 access codes,[38] but it requires that the benefits in "savings" on commissions be recalculated. Assuming a 70 percent dial-around rate by 1997, and applying the FNPRM's analysis as refined by CompTel,[39] only $64 million in OSP commissions to aggregators are likely to be "saved".

Thus, when all of the errors described above are corrected, BPP would produce a net loss of $500 million per year, which is summarized in Table 3.

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[35] FNPRM at Appendix B.

[36] *See, e.g.*, Ameritech Comments at 8 (55%); Bell Atlantic Comments at 8 (55%); NYNEX Comments at 4 (66%); APCC Comments at 22 (60%); Teleport Comments at 6-7 (60%); Teltrust Comments at 12 (54%); SNET Comments at 4 (52%); Polar Comments at 3 (67%).

[37] *E.g.*, NYNEX Comments at 5; Oncor Comments at 21.

[38] *See infra*, p. 25-26.

[39] The derivation of the calculation described here is explained in Attachment 2.

Table 3
Summary of Revised Cost/Benefit Analysis
(Benefits Express as Negative Costs)

Category	FNPRM Estimate	Updated Record
1. LEC Non-recurring costs (amortized)	$357.5M	$426.6M
2. LEC Recurring Costs	149.0M	246.8M
3. LEC Recurring costs recalculated to reflect FCC's assumption of a 75% offset in duplicated OSP functionalities	37.3M	61.7M
4. 14-digit screening	not included	23.0M
5. 0+ balloting	not included	23.9M
6. Overheads/Rate of Return (Non-recurring costs)	not included	192.4M
7. Overheads/Rate of Return (recurring costs (Item 3))	not included	25.0M
8. Effect of inflation [Items 1, 3, 4, 5, 6, and 7 times CPI increases]	not included	79.8M
9. Savings from lower OSP rates	(280.0M)	(226.0M)
10. Savings from reduced commission payments	(340.0M)	(64.0M)
TOTAL AMOUNT BY WHICH BPP COSTS EXCEED ITS BENEFITS	(225.2M)	542.4M

III. THE COST RECOVERY ISSUE DEMONSTRATES IN MICROCOSM THAT THE COSTS OF BPP OUTWEIGH ITS BENEFITS

The foregoing discussion makes clear that the Commission's cost/benefit analysis involves a complex series of interrelated factors which, when properly considered, lead to the conclusion that BPP cannot be justified economically. The results of this analysis can also be seen in the question of whether BPP implementation costs can and should be recovered from "0+" dialed calls, since this issue is in essence a microcosm of the cost/benefit analysis. The concern -- consistent in all the LEC comments -- that limiting BPP's cost recovery to 0+/0- calls will not be sufficient aptly illustrates that BPP's benefits cannot justify its costs.

Basic economic theory teaches that if buyers value a product or service they will pay a price to the supplier sufficient to cover its cost of production plus a reasonable rate of return. Conversely, if buyers do not sufficiently value a product to pay its costs plus a reasonable rate of return, they will not purchase it and will seek a substitute (or do without the product entirely). One would expect, then, that callers who have difficulty with access codes and callers desirous of simplified dialing that will automatically route the call to the OSP of choice would gladly be willing to pay for this benefit whenever they place a "0+" call.[40] If callers do not value this benefit, they will seek a substitute for this automatic routing, which most likely would be to dial an

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[40] Only persons who dial "0+" receive the automatic routing that BPP provides. Persons who continue to dial access codes perform this routing function themselves and thus do not receive any benefit from BPP.

access code that will route the call to the preferred IXC. In short, economic theory holds that if the benefits of BPP outweigh its costs, persons who place interLATA calls by dialing "0+" will pay (through a charge assessed on "0+" calls) for BPP's costs.

Even LEC supporters of BPP implicitly admit, however, that this is not the case with BPP. Ameritech declares that, "[f]irst and foremost, any cost recovery mechanism that makes "0+" calling a premium service costing more than other . . . alternate billed calls will seriously erode the benefits of BPP from the consumer's perspective."[41] Similarly, Sprint opposes recovering BPP costs "in such a way that some OSPs would be induced to subvert the purpose of billed party preference by opting out (through exclusive reliance on access codes)."[42] Yet these results could occur only if automatic routing of "0+" calls is not valued as much as BPP supporters claim. In other words, callers would not avoid the "premium" for BPP's automatic routing if they found such routing conferred a benefit (*i.e.*, by not having to use an access code) that outweighed the increased cost for the call. Similarly, IXCs could not

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[41] Ameritech Comments at 8. Ameritech argues that even a 5% price differential (25¢ on a $5.00 call) would be enough to induce half of all callers to dial around. *Id.*

[42] Sprint Comments at 42. Similar concerns are expressed by Southwestern Bell, whose support for BPP is "contingent" upon adequate cost recovery, and PacTel, which described cost recovery as a "critical" issue. Southwestern Bell Comments at i; PacTel Comments at 1. Presumably, by opposing any "opting out" by an OSP, Sprint means that callers to MCI's 800-COLLECT or AT&T's 800-CALLATT should pay part of the costs of BPP caused by Sprint customers dialing "0+". While it is clear why Sprint would want such a plan (just as it wants its "1+" customers assigned to it for "0+" calls without balloting), it is very poor public policy -- and even worse economics.

"subvert" BPP by exclusive reliance on access codes unless callers were willing to use access codes rather than "0+" -- a conclusion which is at odds with the Commission's assertion of the presumed need for BPP.[43]

So great is the belief that BPP costs cannot be recovered solely from "0+" calls that the LECs -- whether supporting or opposing BPP -- advocate a wide variety of cost recovery mechanisms, all of which share one common element: they rely on large classes of non-beneficiaries of BPP's automatic call routing to subsidize BPP.[44] According to BellSouth, traditional "cost-causer" based recovery (i.e., recovery only from those using the "0+" automatic routing) will not work because "substantial costs and the high probability of IXC bypass preclude this approach in the case of BPP."[45] If recovery from the users and only possible beneficiaries of BPP is "precluded," then the Commission should heed these messages and recognize that, in the eyes of

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[43] Cincinnati Bell Telephone (which opposes BPP) agrees that, if BPP is implemented, costs should be recovered only from 0+/0- calls, but candidly admits that this method will not ensure full recovery of BPP costs. CBT Comments at 5-7.

[44] *See* Ameritech Comments at 9 (recovery from "all operator and alternate billed traffic"); Bell Atlantic Comments at 18-19 (recovery from all operator services calls or pro-rata OSP payments based upon total operator services revenue); BellSouth Comments at 19-20 (recovery from all switched access minutes of use); NYNEX Comments at 14 (recovery from a surcharge on the End User Common Line Charge or from all operator services calls); PacTel Comments at 1 (recovery from "the general body of rate payers"); SNET Comments at 7 (recovery from "the widest possible base for cost recovery"); Sprint Comments at 42-43 (suggesting that recovery of non-recurring costs from an "equal access" surcharge is appropriate); *see also* MCI Comments at 4-5 (recovery of non-recurring costs from "a broad-based charge on all carriers using switched access").

[45] BellSouth Comments at 19.

consumers, BPP imposes costs that far overshadow its meager benefits. The proper response is to abandon the concept of BPP, not to conceal its substantial harms by expanding the cost recovery pool to callers receiving no benefit from the service.

IV. THE COMMENTS CONFIRM THAT BPP WILL IMPOSE SIGNIFICANT BUT LARGELY UNQUANTIFIABLE COSTS IN THE FORM OF REDUCED COMPETITION

In addition to the cost/benefit analysis above, which focuses on factors that are quantifiable, it is clear that BPP will create a variety of other harms that, although largely unquantifiable, further tip the balance against adoption of BPP. Moreover, these unquantifiable costs are recurring costs -- harms that consumers will feel every day -- refuting the notion that BPP might eventually pay for itself, if only one waits long enough to recoup its enormous implementation costs. Instead, these costs make clear that BPP will always cost the public more than the benefits it will produce.

Focusing on harms that consumers will feel directly, there are several. First, US West estimated two years ago that BPP -- even with AABS, OSS7, and other technological "fixes" envisioned by the Commission -- will add from 6 to 30 seconds in additional processing time to *every* "0+" call (not just the 19 percent benefitted by BPP).[46] No party has refuted this estimate. This delay will be more than a minor annoyance, particularly for the sophisticated caller with a need to make multiple calls.

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[46] US West Comments at 12-13 (July 7, 1992).

Second, if BPP is implemented, callers are likely to find fewer public places to place "0+" calls, or to find fewer services available with the telephone. Commissions paid to aggregators represent compensation to that location for the cost of installing and maintaining a public phone, and if aggregators lose that compensation, as the FNPRM assumes, they will install other revenue generating devices in that location (such as vending machines or newsracks).[47] As APCC notes, this likely will result in the loss of phone service in many rural or low income locations that were unserved or abandoned by the LECs.[48]

Third, even at locations where public phones continue to be available, callers will be more confused about call routing than they would without BPP. Under BPP, callers very likely could have three consecutive "0+" calls *from the same public telephone* routed to three different carriers, based solely upon the happenstance of whether the call was inter- or intrastate and inter- or intraLATA.[49] Unless the caller has a very sophisticated knowledge of federal/state jurisdiction and LATA boundaries, he or she naturally might question (one to two months later, when receiving a bill) why the automatic call routing that had been promised "failed." Moreover, this would be a certain result of FCC action to adopt BPP, except in the implausible situation where all

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[47] APCC Comments at 14-15; Bell Atlantic Comments at 6.

[48] APCC Comments at 17-19.

[49] *See, e.g.*, LDDS Comments at 5-6; CNS Comments at 17-18.

state jurisdictions also apply BPP to intrastate and intraLATA calls.[50] Indeed, NARUC and several other parties have asserted that the FCC lacks jurisdiction to impose BPP for intrastate calls.[51] As Southwestern Bell (a BPP supporter) repeatedly emphasized, "if BPP is not ubiquitous, much consumer confusion will result."[52]

Fourth, callers will be required to sacrifice innovative new "0+" services such as voice activated calling if BPP were adopted.[53] BPP also will strand the significant investments already made in current "smart" telephone technology, because BPP will shift network intelligence from the equipment to the LEC OSS switching center.[54] This is a giant step backward in CPE technology, as BPP essentially mandates that all CPE be "dumb" equipment. Moreover, some parties have argued that just compensation will be required for this "taking" of equipment providers' property.[55]

BPP also will erect a structural barrier to competitive entry in the local exchange market. BPP would force competitive access providers ("CAPs") to rely on

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[50] *See* NYNEX Comments at 6 (many states in addition to New York have indicated they will not adopt BPP).

[51] NARUC Comments at 5-6; LDDS Comments at 4 n.4; Teleport Comments at 8 n.7; CNS Comments at 18.

[52] Southwestern Bell Comments at 12.

[53] AT&T Comments at 24; *see* CompTel Comments at 29-30.

[54] AMNEX Comments at 17; APCC Comments at 37; CNS Comments at 19-20; ClearTel/Call America Comments at 6-7 (BPP will eliminate all incentive for innovation by equipment providers).

[55] *See* APCC Comments at 44-45.